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SUBJECT: UKRAINIAN PARLIAMENT PASSES WTO-REQUIRED CUSTOMS
TARIFF LAW, BUT WITH A CATCH

REF: KYIV 915

SENSITIVE BUT UNCLASSIFIED; NOT FOR INTERNET PUBLICATION.

¶1. (SBU) Summary: Parliament adopted a bill on June 3 to lower Ukraine's tariff rates in line with commitments made during WTO accession negotiations. The law as adopted, however, delays tariff reductions for a large number of goods until 2009, in contradiction to accession commitments. The bill passed with a veto-proof majority, but there might be prospects for the veto to be sustained if President Yushchenko does veto the bill. Two other WTO-related laws have passed in the first reading, one has failed, and one has yet to come up for a vote. Post intends to deliver a strong message to the GOU regarding our displeasure with the Customs Tariff Law, and to encourage resolution of other outstanding WTO commitments.
End Summary.

Tariff Law Passes with Problematic Exceptions

¶2. (U) Ukraine's Rada (parliament) adopted a bill on June 3 amending the Law "On the Customs Tariff of Ukraine," meant to bring into force the bound tariff rates agreed to as part of Ukraine's WTO accession negotiations. (Note: Ukraine became the 152nd member of the WTO on May 16, but failed to adopt beforehand all of the outstanding legislation promised during accession talks (reftel). End note.) The version of the law that passed delays tariff reductions until January 1, 2009 for a sizeable list of goods, including various types of meat and poultry, cocoa powder and chocolate, wines and other fermented beverages, and certain kinds of automobiles. (Note: A complete list of tariff lines for which tariff reductions have been delayed is provided in para 9 of this cable. End note.)

¶3. (U) The bill passed by a wide margin, with 367 MPs from the ruling coalition and opposition voting in favor, and will come into effect once signed by the President. The President can choose to veto the bill, but the Rada needs only 300 votes to override a veto. However, if the President's Our Ukraine faction were to oppose an override, theoretically there would be enough votes to sustain the veto. President Yushchenko has not yet made any statements on whether he will sign or veto the measure.

¶4. (SBU) While this draft law was still working its way through the legislative process, the Tymoshenko government had issued instructions to the State Customs Service to

apply the lowered tariff rates from May 16 regardless of the lack of Rada action on the bill(reftel). Although the legality of these instructions was questionable, informal feedback from local industry reps confirmed that Customs was in fact charging the lower tariff rates. Vyacheslav Yandrykhinskiy, from home and food products giant Unilever, told Econoff he understood that the special instructions to Customs would only be valid until a new law came into effect, however. (Comment: In theory, the GOU could try to continue to implement the lowered tariffs, ignoring the law just passed by the Rada, but doing so would be extremely controversial as an encroachment on the legitimate rights of the legislature. End Comment.)

Two Other Bills Successfully Through 1st Reading

¶15. (U) The Rada has passed two other outstanding WTO bills in the first reading. Those draft laws are:

-- Draft Amendment to the Law "On Veterinary Medicine" (to ensure that the production of beef with hormones, the assessment of "contaminants" and "maximum residue limits," and the regulation on the system of animal identification are in compliance with the SPS Agreement, CODEX Alimentarius, and our bilateral agreement); and

-- Draft Amendment to the Law "On Fish, Other Water Living Resources, and Food Production from Them" (to ensure compliance with the norms of the WTO TBT and SPS Agreements).

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One Law Voted Down, One not yet on the Docket

¶16. (SBU) The Rada has voted down one draft law, an amendment to the Law "On Safety and Quality of Food Products" (to bring Ukraine's inspection regime into line with WTO rules by clarifying that standards are not mandatory). Vyacheslav Tsymbal, Director of the Ministry of Economy's WTO Department, told Econoff that, unless the GOU got a clear sign that a majority could be found for this law, the GOU would have to alternatively try to accomplish the main goals of the draft law through regulatory changes.

¶17. (U) The Rada has also yet to vote on a final piece of outstanding legislation, an Amendment to Several Laws (to eliminate the zero VAT rate for agricultural producers, and to eliminate a difference in excise duty rates for the commodity group UKTZED 220820 (spirits received from processing grape wines)).

Comment: Dealing with Legislative Failure

¶18. (SBU) Passage of the Customs Tariff Law with such a large number of products exempted from immediate tariff reductions sends a bad signal about Ukraine's willingness to meet its WTO commitments. Although amounting to a delay of only a little more than six months, the move contradicts a fundamental principle of the WTO accession process and will hurt U.S. exporters. Post intends to make use of several upcoming visits by high-level USG officials to hammer this message home to the GOU, and to push with other like-minded Embassies for meeting other outstanding WTO commitments.

List of Delayed Tariff Lines

¶19. (U) The amendment to the Law "On the Customs Tariff of Ukraine," as adopted on June 3, postpones tariff reductions until January 1, 2009 for the following HTS tariff lines:

0201 20 20 00, 0201 20 90 00, 0201 30 00 00, 0202 20 90 00,
0202 30 10 00, 0202 30 90 00, 0203 11 90 00, 0203 12 90 00,
0203 19 55 00, 0203 19 59 00, 0203 19 90 00, 0203 22 90 00,
0203 29 55 00, 0203 29 59 00, 0203 29 90 00, 0204 22 90 00,
0204 23 00 00, 0204 42 90 00, 0204 43 10 00, 0204 43 90 00,
0204 50 39 00, 0204 50 79 00, 0206 10 10 00, 0206 10 91 00,
0206 10 95 00, 0206 10 99 00, 0206 22 00 00, 0206 29 10 00,
0206 29 91 00, 0206 29 99 00, 0206 30 00 00, 0206 41 00 00,
0206 49 20 00, 0206 49 80 00, 0206 80 10 00, 0206 80 91 00,
0206 80 99 00, 0206 90 10 00, 0206 90 91 00, 0206 90 99 00,
0207 13 10 00, 0207 13 30 00, 0207 13 40 00, 0207 13 60 00,
0207 13 70 00, 0207 13 91 00, 0207 13 99 00, 0207 14 10 00,
0207 14 30 00, 0207 14 40 00, 0207 14 60 00, 0207 14 70 00,
0207 14 91 00, 0207 14 99 00, 0207 26 10 00, 0207 26 30 00,
0207 26 40 00, 0207 26 60 00, 0207 26 70 00, 0207 26 80 00,
0207 26 91 00, 0207 26 99 00, 0207 27 10 00, 0207 27 30 00,
0207 27 40 00, 0207 27 60 00, 0207 27 70 00, 0207 27 80 00,
0207 27 91 00, 0207 27 99 00, 0207 34 10 00, 0207 34 90 00,
0207 35 11 00, 0207 35 15 00, 0207 35 31 00, 0207 35 41 00,
0207 35 91 00, 0207 35 99 00, 0207 36 11 00, 0207 36 15 00,
0207 36 31 00, 0207 36 41 00, 0207 36 71 00, 0207 36 79 00,
0207 36 81 00, 0207 36 85 00, 0207 36 89 00, 0207 36 90 00,
0210 11 11 00, 0210 11 19 00, 0210 11 31 00, 0210 11 39 00,
0210 11 90 00, 0210 12 11 00, 0210 12 19 00, 0210 12 90 00,
0210 19 10 00, 0210 19 20 00, 0210 19 30 00, 0210 19 40 00,
0210 19 51 00, 0210 19 59 00, 0210 19 60 00, 0210 19 70 00,
0210 19 81 00, 0210 19 89 00, 0210 19 90 00, 0210 20 10 00,
0210 20 90 00, 0210 91 00 00, 0210 92 00 00, 0210 93 00 00,
0210 99 10 00, 0210 99 21 00, 0210 99 29 00, 0210 99 31 00,
0210 99 39 00, 0210 99 41 00, 0210 99 49 00, 0210 99 51 00,
0210 99 59 00, 0210 99 60 00, 0210 99 71 00, 0210 99 79 00,
0210 99 80 00, 0210 99 90 00, 0207 13 20 00, 0207 14 20 00,
0207 26 20 00, 0207 27 20 00, 1805-1806, 2204-2206, 8702 10
11 10, 8702 10 19 10, 8702 10 91 00, 8702 10 99 00, 8703 22
10 00 - 8703 22 90 30, 8703 23 19 10, 8703 23 90 11, 8703
23 90 13, 8703 31 10 00, 8703 31 90 10, 8703 31 90 30, 8703
32 19 00, 8703 32 90 10, 8703 32 90 30, 8703 33 19 00, 8704
10 90 10, 8704 10 90 90, 8704 21 31 00, 8704 21 39 00, 8704
21 91 00, 8704 21 99 00, 8704 22 91 00, 8704 22 99 00, 8704

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23 91 00, 8704 23 99 00, 8704 31 31 00, 8704 31 39 00, 8704
31 91 00, 8704 31 99 00, 8704 32 91 00, 8704 32 99 00

TAYLOR